

Dissenting Views on H.R. 2267, "Internet Gambling Regulation, Consumer Protection, and Enforcement Act"

In spite of significant bipartisan opposition, the Committee majority passed H.R. 2267, 'The Internet Gambling Regulation, Consumer Protection, and Enforcement Act,' to establish a federal licensing program under which Internet gambling companies may lawfully operate and accept bets or wagers from individuals located in the United States. In doing so, H.R. 2267 reverses the longstanding national policy against gambling by establishing a presumption in favor of legalized online betting.

Internet gambling's characteristics are unique: online players can gamble 24 hours a day from home; children may play without sufficient age verification; and betting with a credit card can undercut a player's perception of the value of cash, leading to addiction, bankruptcy and crime. Young people are particularly at risk. John Kindt, Professor of Business Administration at the University of Illinois says: 'It's 'click the mouse, lose your house.' It puts gambling at every work desk and every school desk and in every living room. It would increase problem gambling rates exponentially.'

By approving this bill, the largest expansion of gambling in history, the Committee has taken steps to open casinos in every home, dorm room, library, iPod, Blackberry, iPad and computer in America. Since this Congress took action in 2006 to address the spread of Internet gambling by passing the Unlawful Internet Gambling Enforcement Act (UIGEA), offshore gaming interests have campaigned to repeal the law, or at least, to undermine it. These are large corporate interests that are protecting their bottom line at the expense of addiction and destruction to our homes and communities. Supporters of H.R. 2267 argue that by licensing and taxing online wagering and implicitly repealing the Wire Act, the Federal government could better prevent fraud, limit compulsive gambling and protect minors. At the same time, they argue it would create a new multi-billion dollar revenue source for the Federal government.

It is true that to obtain a license to conduct Internet gambling operations under this bill, applicants must demonstrate a variety of online safeguards to ensure safe and proper use of a licensee's Web site. But recent developments have cast doubt on whether the intended protections are viable. For example, the bill requires protective mechanisms that combat fraud. But the Federal Bureau of Investigation (FBI) has identified several ways to cheat at online poker, none of which are illegal or banned by the bill. The FBI has also said that not only does technology exist to manipulate online poker games, but that advanced technology to cheat is not even necessary because 'it would only take two or three players working in unison to defeat the other players who are not part of the team.' ¹

Perhaps even more significant than the potential undetectable theft of money from one participant in an online peer-to-peer game like poker, the FBI fears that cheaters will use online poker rooms to 'virtually wash money.' ² It has described a simple money laundering scheme involving private games with 'mules' or ciphers. In this scenario, an individual could create a private game or tournament (available on almost every online poker site) with a number of phony players guaranteed to win. In any given hand, the individual could raise the pot to the maximum amount allowed and subsequently fold before the hand is finished, allowing the individual to transfer the money from his account to the mule account (potentially several times). In other words, under the guise of innocent participation in a friendly poker game with friends, an individual could launder limitless sums of money.

Just as there is considerable doubt whether H.R. 2267 will prevent cheating or money laundering, there are questions whether H.R. 2267's age and location verification mandates will prevent minors from gambling online or ensure that bettors only bet in jurisdictions that permit gambling. First, the FBI has dismissed assertions by online vendors who say they have technology solutions to validate the age or location of potential players. ³ Second, a federal district court judge

has found age and identity verification procedures either unavailable or ineffective. 4 Third, experts in the field of online protection and identity verification mechanisms. 5 And fourth, evidence indicates that such safeguards, even when implemented, do a poor job of preventing web site access to restricted parties such as children.

Even though the bill would inadequately guard against cheating, money laundering and underage betting, some have said that this bill could raise significant revenues to fund other policy priorities. But that claim is specious too. Although it is our view that the Federal government should not take advantage of the young, the weak and the vulnerable in the name of growing government, we learned during the legislative hearing on this bill that the estimates of the revenues that legalizing Internet gambling would supposedly generate are significantly overstated. To raise the revenues that its supporters tout (\$42 billion over ten years), H.R. 2267 would need to require complete federal preemption. The Joint Committee on Taxation's most expansive of four different estimates--\$42 billion--is based on an assumption that 'no State or tribal government will be permitted to limit federally licensed Internet gambling operators from providing online gambling services in their jurisdictions' In other words, legalizing Internet gambling will generate \$42 billion only if H.R. 2267's opt-out procedure--its principal State-protective provision--is eviscerated. The Joint Committee on Taxation estimate that is most closely based on the texts of H.R. 2267 and its companion tax measure, H.R. 4976, indicates that the bills will generate just \$10 billion in Federal revenue. This estimate appears to assume that many States will choose to opt-out in order to prevent the expansion of gambling on the Internet. Ultimately though, given that this bill fails to enforce laws against illegal sites, there will be little incentive for gaming interests to set up a legal and taxed site. In that case, the promised 'revenues' are likely to be illusory.

Considering that the social and economic harm done to America's families and to young people from unlawful Internet gambling is well-documented, we ask: is passing new legislation to create a Federal right to gamble that has never existed in our country's history--and addicting the Federal government to Internet gambling taxes for more spending in the process--really worth it? We urge our colleagues to see H.R. 2267 for what it really represents--the largest expansion of gambling ever proposed in Congress. We oppose its passage.

1Letter from Shawn Henry, Assistant Director, Cyber Division, Federal Bureau of Investigation, to Spencer Bachus, November 13, 2009.

2Id.

3Id.

4See *ACLU v. Gonzales*, 478 F. Supp. 2d 775 (E.D. Pa. 2007).

5Fagan, Michael. Statement to the House Committee on Financial Services. H.R. 2267, Internet Gambling Regulation, Consumer Protection, and Enforcement Act, Hearing, July 21, 2010.

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